

**CITY OF MILWAUKIE
CITY COUNCIL WORK SESSION
APRIL 21, 1998**

The work session came to order at 5:00 p.m. in the second floor conference room at Milwaukie City Hall.

Present were Mayor Tomei and Councilors Kappa, King, Lancaster, and Marshall.

Board and Commission Interviews

The Council conducted three Board and Commission interviews: Joan Staley, Center/Community Advisory Board; Ed Zumwalt, Library Board; and Carl Jacob, Citizens Utility Advisory Board.

After the interviews, the following staff joined the meeting: City Manager Bartlett, Assistant City Manager Richards, City Attorney Ramis, and Neighborhood Services Coordinator Gregory.

Light Rail Town Hall Update

Gregory discussed an article in the *Oregonian* that incorrectly stated the Council would make a decision on use of the Safeway Building.

The group agreed the Town Hall Meeting should be held on May 27, 1998, in the Milwaukie High School Commons.

Gregory discussed Town Hall coordination and said she would get input from the neighborhood leadership when she met with them later in the week.

Mayor Tomei did not feel the Council should expect the same degree of coordination from the neighborhoods that took place with the first Town Hall. The issue being discussed at the upcoming session is very specific.

Councilor Kappa felt it was very effective having community members involved and gave credibility to the process.

Mayor Tomei stated the City Council needed very specific information from the public, and she felt the event should be structured in a way to reach that outcome. The City Council needs to develop its decision to present to the Metro Steering Committee.

Councilor King added the forum needs to provide both clear information and an opportunity for clarification and discussion.

Councilor Kappa cautioned using the word “structure.”

Councilor Marshall agreed with both points of view. The City Council needs to provide specific direction to reach the desired outcome, but he also agreed people need to feel they were involved. He recommended giving the neighborhood planning group the Council’s parameters, and let them do what they feel is necessary for the community.

Mayor Tomei agreed with Marshall’s comments.

Councilor Lancaster suggested a Town Hall with the entire City invited. There can be representatives both supporting and opposing light rail who are recognized as credible. Each panel can present, and then the other panel can ask questions about the content of the presentation. Citizens who attend can write down any questions, and the City Council can ask questions at any time.

Mayor Tomei felt this process would put the event in the form of a debate. Her goal was to get information so the City Council could formulate its response to Metro and make a decision on which route it supports.

Councilor Lancaster said there is a lot of confusion about what information is factual. There has been no real opportunity to get information experts from both camps in the same place so they can ask each other questions. The City Council wants to focus on light rail as it impacts Milwaukie in addition to the regional aspect.

Bartlett said the project was reviewed by an internationally recognized expert review panel. The panel members, who reviewed every phase of the project, have no vested interest in the line being built. This panel is required by State law. The Steering Committee directs staff to make any modifications based on the panel’s comments. He suggested getting copies of the expert review panel’s findings.

Councilor Lancaster said this is a good example of the information that Milwaukie residents need to see.

Mayor Tomei felt the real issue for City Council was the alignment and not the merit of light rail.

Councilor Kappa agreed. The decision before the City Council was what to put in its Steering Committee recommendation. There are recommendations from committees that were convened several years ago, and these are valid pieces of information that should be available at the Town Hall.

Councilor Marshall understood no-build was an option. If it is included as an option, then the City Council is obligated to do what Lancaster recommended. His perception of the Town Hall was that City Council was there to get information from citizens on their preferred alignment separate from the no-build option. Give the citizens an opportunity, in a local Town Hall environment, to talk about their preferred alignment.

Councilor King asked the others how do they might get information to the community so that educated choice could be made.

Councilor Marshall suggested having Metro Executive Burton on hand to discuss the purpose within the regional framework. Most citizens do not understand the decision to have mass transportation instead of more roads was actually made about twenty-five years ago. That point probably needs to come out to set the tone of the event – we are not deciding whether to have light rail or not. The City needs to decide as a community on the best alignment from the various possibilities.

Councilor Kappa did not want the public to get the feeling that no-build has been put aside. There are two Railroad Avenue alignment options, and people need to understand how much money the City will save if street improvements are made as part of the light rail project.

Councilor Marshall did not want to spend a lot of time on the no-build option. He was there to hear which alignment, if the City has to have light rail, people would prefer.

Bartlett suggested the forum address the no-build option resulting in the need to build additional freeways and to expand McLoughlin Blvd. Tell people how much this would cost.

Gregory said the format needs to be interactive but not to the point of diluting the Council's ability to get substantive information. She suggested a Metro representative set the tone that light rail is a regional decision and describe the process. City Council can be assembled in a listening mode with an expert panel as a resource. She suggested a work shop exercise in which the four alignment options were presented with groups breaking out to discuss the alignment impacting them the most.

Bartlett said the process will be streamlined by holding the event on May 27. By that time, the Project Management Group (PMG) and Citizens Advisory

Committee (CAC) will have made recommendations on the alignment options to the Steering Committee. The Steering Committee will not have made its decision, but the community will know what the PMG and CAC have recommended. This information will help focus the event.

Mayor Tomei said the City Council needs to make decisions on Park-and-Ride sites, station locations and other project elements.

Bartlett said PMG will meet on May 7, and members will be briefed. At that point, Project Managers from each of the agencies will be asked to make a recommendation to the Steering Committee based on technical knowledge and staff input. It will not be a binding decision on the governing bodies. The project staff tries not to influence the CAC, and agreement is not necessary. The body that brings the project together, by IGA, is the Steering Committee.

Councilor Kappa the cost information on improving Railroad Avenue is important and needs to be included. There are cost saving issues for the City involving the Railroad Avenue alignments.

Bartlett suggested DKS provide a brief summary of their report.

Mayor Tomei suggested Tri-Met, DKS, and Metro as resource panel participants. The other panel could include Zucker and O'Toole.

Councilor Lancaster said his over-riding concern was that if the Council did not take an objective approach with authorities from both camps, it would continue to have serious problems with Milwaukie citizens.

Councilor Marshall said the Town Hall is supposed to serve two functions: providing information to the community and gathering information from the community. He felt both could be accomplished.

Bartlett was concerned it would be difficult to separate factfinding from information giving. The City Council needs to weigh the benefits of light rail crossing the Clackamas County line and how far it should go.

Councilor Marshall thought it could be accomplished because no-build is still supposedly a viable option. If it is presented as an option, then people should get to talk about it.

Councilor Kappa added the City Council will have the PMG and CAC information, and the no-build option may have been eliminated.

Councilor Marshall said there was an interesting discussion about citizen participation. People supporting an issue such as light rail might not attend because they know those in opposition will have a strong turnout. The result is

that the City does not get full participation and representation. He recommended paying for a scientific, random survey by a polling company.

Gregory had contacted three market research firms. They estimated 375 calls would be statistically significant and would cost about \$8,000. The calls would each be about fifteen minutes long and cover five or six questions.

Bartlett added the City has a contract with Metro for public involvement.

Councilor Marshall asked Gregory if that kind of survey would provide a better representation of opinions. **Gregory** said it would because it is not self-selected.

Gregory summarized Council's direction: contract with a market research firm for the telephone survey; schedule the May 27 event; continue to work on getting a facilitator; and involve the neighborhoods.

The group agreed to schedule work session time on May 5 to discuss elements of the event itself including expert panels, speakers, Council's role, and neighborhood leadership input.

Regional Center Master Plan Hearing

Ramis discussed the process and procedure of the Regional Center Master Plan public hearing. This hearing will be both legislative and quasi-judicial, and he provided the City Council with advise on its conduct so that all parties will be protected.

The City Council is being asked to make two types of decisions: whether or not to adopt broad policies that would go in the Zoning Ordinance and the Comprehensive Plan; and, secondly, whether those policies should apply to specific properties.

In the legislative context, the Council is adopting laws and broadly applying policy. When applying the decisions to specific pieces of land, it is a quasi-judicial process because specific applications of those previously adopted policies are being made.

The rules are different for each of these proceedings. In the legislative context, lobbying is not prohibited, so it does not need to be part of the record. There is also no prohibition on policy bias that may have developed during election campaigns or during other hearing processes. There is no "raise it or waive it" policy, so a citizen is not required to raise all of his or her issues.

There is another set of rules for the quasi-judicial process. Lobbying on a particular property needs to be revealed and made part of the record. The key is to make sure that everyone knows what has been said and what information has

been used to make a decision. In this type of hearing, the decision is supposed to be made based on the criteria with personal bias being avoided. For citizens who are testifying, they must have raised all their issues during the hearing in the event they wish to appeal to the Land Use Board of Appeals (LUBA). Those testifying must put all of their information in the record. Rebuttals are also allowed in quasi-judicial hearings, and he recommended erring on the side of allowing responses.

To apply this procedure to the proposal before the City Council at this meeting, the legislative aspects would be changing the Zoning Code and the Comprehensive Plan. As far as lobbying is concerned for this portion of the hearing, Council does not have to note all contacts for the record. Lobbying for a specific property was clearly quasi-judicial in his mind with the possible exception of the larger downtown area. Arguments of that nature should be put in the record.

Councilor Marshall asked how the legislative and quasi-judicial portions would be separated in actions that seem to overlap. **Ramis** suggested beginning the hearing with Council giving any disclosures relating to the quasi-judicial portion. He would explain to those wishing to testify that they would need to raise all issues at this meeting. At the end, the City Council can separate the broad decision of amending the Comprehensive Plan without being site specific.

Councilor Kappa asked if, after going through all the steps, the decision could be set forward. Prior to making his decision, he wanted sufficient time to review the final version of the Regional Center Master Plan, the Planning Commission information, and testimony at this hearing.

Bartlett suggested Eaton's firm prepare a pro/con analysis of these actions in reference to compliance with the Metro Functional Plan. She could compare the Town Center goals and the Regional Center goals. If there were mixed use applications submitted, that zone would not be available. That part would be delayed. To have a mixed use overlay zone be effective, the location of the overlay must be identified on the map. The City Council has the option of directing the consultant to report on how the plan would comply with the Metro Functional Plan.

Councilor King commented hearing could be for the purpose of public information. **Ramis** said the decision could be moved forward to a future date.

Eaton added the City needs to let Metro know by August how it intends to comply with the Functional Plan, but the City Council does not have to make adoptions until February 1999. There is also an exception process, so there are a variety of options.

Councilor Kappa wanted to make it clear he was not suggesting the City wait until August. His caveat would be that, if the decision were continued to another meeting, the City Council would not be able to discuss the issues. **Ramis** said the Council would have to be careful of the quasi-judicial aspect, but the legislative aspect could be discussed with anyone.

Ramis reviewed the meeting process: start the meeting by allowing him to say a few words to the public about their testimony to make it clear they need to raise all of their issues; the Council puts any ex parte contacts on the record; staff makes its report; staff identifies any additional correspondence; Council hears testimony; and finally a short rebuttal period. At that point, the City Council could go into deliberation or continue the hearing. The public testimony portion of the hearing may be closed at this time. The main purpose is to get the public testimony on record.

Councilor Marshall asked if one area could be separated from the whole. For example, could Subarea 1 be considered completely separate and the others be disregarded and put off for further review.

Ramis said that is an option. The City Council can direct staff to come back with an ordinance reflecting that for later adoption.

Bartlett said the City Council could decide it wanted to do the mixed use overlay in Subarea 1 now and direct staff to prepare an ordinance reflecting that. The item would be set over to a date certain so the City Attorney and Community Development staff would have time to review the ordinance.

Councilor Kappa asked if subareas, such as the Jr. High site, could be excluded or if subareas could have certain conditions. **Ramis** said these are options.

Bartlett said it is important to give reasons on the quasi-judicial side so that Ramis could prepare findings.

Councilor King asked, if the City Council approved the overlay, could other issues, such as boat ramp parking, be considered later. **Mayor Tomei** noted the boat ramp was not part of Subarea 1.

Mayor Tomei said the area is being called a Regional Center and asked if Milwaukie could be designated as a Town Center.

Bartlett said a Town Center can have a mixed use overlay. As an entity, the City of Milwaukie could decide, because its zoning ordinance is devoid of mixed use capabilities other than planned unit development residential, that it wants a mixed use type overlay zone that allows planned unit development on any parcel.

Heiser said the City currently has the Residential-Office-Commercial (R-O-C) zone which is a mixed use designation, but it does not allow for any kind of formal plan review. It is a staff level review building permit. The mixed use overlay would allow for formal Planning Commission review as a minor quasi-judicial decision.

Ramis added, in terms of a later change in decision, there is nothing that would not allow the City Council from coming back later and changing every Regional Center reference to Town Center.

Bartlett suggested, if Council wished, it could give direction for W&H Pacific to prepare a report on the pros and cons of the Regional Center vs. Town Center designation. The City Council could make an informed decision and understand the impact changing the designation would have on Functional Plan compliance. Eaton needs to know the City Council is considering another option so she can identify the trade-offs.

Eaton said she would give a brief summary during the hearing on the Functional Plan Compliance Report.

Councilor Kappa stated that information was very valuable during the legislative portion of the hearing.

Councilor Lancaster said it was important to lay the foundation at this meeting for the other complex issues that will follow. People need to understand what its City Council is doing and take it one small step at a time.

Councilor Kappa expressed open space concerns and wanted to be sure these were heard at some time during the process.

Ramis said, during the hearing, he would disclose that his firm had represented a client by the name of Murphy in the past, but he has had not contact with them on any matters relating to this issue.

Pat DuVal, Recorder